

**ARKANSAS COURT OF APPEALS**  
NOT DESIGNATED FOR PUBLICATION  
DIVISION III

CACR 05-992

MARCH 22, 2006

KENTRELL L. HILL	APPELLANT	APPEAL FROM THE OUACHITA COUNTY CIRCUIT COURT [NO. CR-04-110]
V.		HONORABLE EDWIN A. KEATON, JUDGE
STATE OF ARKANSAS	APPELLEE	AFFIRMED

JOHN B. ROBBINS, Judge

Appellant Kentrell L. Hill was convicted by a jury of possession of marijuana, possession of drug paraphernalia, maintaining a drug premises, possession of cocaine with intent to deliver, two counts of delivery of cocaine, and delivering and possessing with intent to deliver controlled substances within 1000 feet of a publicly funded housing development. Mr. Hill was sentenced to a total of 135 years in prison. He now appeals, challenging only his two convictions for delivery of cocaine and one conviction for possession of cocaine with intent to deliver. Mr. Hill contends that the trial court erred in denying his directed-verdict motions with respect to each of these charges. We affirm.

A motion for directed verdict is a challenge to the sufficiency of the evidence. *Rutledge v. State*, 345 Ark. 243, 45 S.W.3d 825 (2001). When the sufficiency of the evidence is challenged we consider only the evidence that supports the verdict, viewing the evidence in the light most favorable to the State. *Young v. State*, 77 Ark. App. 245, 72 S.W.3d 895 (2002). The test is whether there is substantial evidence to support the verdict. *Id.* Substantial evidence is evidence that is forceful enough to compel a conclusion beyond

speculation or conjecture. *Atkinson v. State*, 347 Ark. 336, 64 S.W.3d 259 (2002). Circumstantial evidence may be sufficient to sustain a conviction when it excludes every other reasonable hypothesis consistent with innocence. *Aydelotte v. State*, 85 Ark. App. 67, 146 S.W.3d 392 (2004). It is the responsibility of the trier of fact to determine the credibility of the witnesses. *Kelley v. State*, 75 Ark. App. 144, 55 S.W.3d 309 (2001).

Maggie Tidwell testified that she is a former drug user and made controlled buys for the Thirteenth Judicial District Drug Task Force. Prior to each buy, the police would search Ms. Tidwell to make certain that she did not possess any contraband, and then give her currency to make the purchase. The bills were photocopied for identification purposes. Ms. Tidwell also wore a hidden recording device.

Ms. Tidwell testified that she has known Mr. Hill for several years, and that she made a controlled buy from him on March 25, 2004. On that occasion, she rode to Mr. Hill's residence in a car driven by Officer Wade Gilliam. After Officer Gilliam dropped her off at the house, Ms. Tidwell entered and exchanged twenty dollars for a rock of crack cocaine. Ms. Tidwell stated that she handed the rock to Officer Gilliam when she returned to the vehicle.

Ms. Tidwell made another controlled buy on May 20, 2004. On that day she drove to Mr. Hill's residence alone and was followed by officers in another vehicle. After entering the house, she walked with Mr. Hill to the back porch where he kept crack cocaine in a barbecue grill. Ms. Tidwell asked for fifty dollars worth and exchanged the money for a quantity of crack cocaine.

Subsequent to the controlled buy on May 20, 2004, the police obtained and executed a search warrant. Officer Cory Bostic participated in the search of Mr. Hill's home. Officer Bostic testified that during the search police found contraband including marijuana, crack

cocaine, powder cocaine, a knife and razor blades with residue, a glass pipe, and digital scales containing a white powder. The police also found a box of plastic baggies inside the barbecue grill. When Mr. Hill was arrested, \$215 was recovered from his pants pocket. Among the currency was a ten-dollar bill that matched the serial number of one of the bills transferred during the second controlled buy.

Jeff Bruce, a crime lab chemist, confirmed that the substance purchased during the second buy contained cocaine. Kimberly Stricklin, also a chemist, tested the sample submitted from the first buy and it, too, was positive for cocaine. Ms. Stricklin analyzed the items seized during the search, and stated that there were quantities of crack cocaine weighing .0869 grams and .3882 grams. The quantity of powder cocaine weighed 1.9719 grams.

Subsequent to his arrest, Mr. Hill signed a waiver-of-rights form and gave a taped statement to Officer Evan Zeek. During the interview, Mr. Hill acknowledged that all of the cocaine, marijuana, and paraphernalia found in the house belonged to him. He further admitted that he deals cocaine and packages it in plastic baggies for sale. Mr. Hill indicated that he has been selling cocaine for about twenty years.

Angela Porchia testified as a defense witness. She stated that she was with Mr. Hill on May 20, 2004, and that he was helping someone move furniture. Ms. Porchia maintained that Mr. Hill did not sell any illegal drugs while she was with him on that day.

Mr. Hill argues on appeal that there was no substantial evidence to support his convictions for delivering cocaine or his conviction for possession of cocaine with intent to deliver. Arkansas Code Annotated section 5-64-401(a) (Repl. 2005) provides that “it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.” Mr. Hill asserts that the only proof on the two delivery

counts was the testimony of Ms. Tidwell, noting that no officers witnessed the transactions. Mr. Hill further argues that there was insufficient proof that he knew the substances he delivered or possessed were cocaine. With certain exceptions not applicable here, if the statute defining an offense does not prescribe a culpable mental state, a culpable mental state is nonetheless required and is established only if a person acts purposely, knowingly, or recklessly. *See* Ark. Code Ann. § 5-2-203(b) (Repl. 2006). Mr. Hill submits that his culpability was not proved with respect to his knowledge of the identity of the substances.

We hold that substantial evidence supports each of the convictions that Mr. Hill challenges on appeal. Ms. Tidwell testified that she bought cocaine from Mr. Hill on two occasions, and we are bound by the jury's determination that she was a credible witness. While Mr. Hill maintains that he did not knowingly deliver or possess cocaine, there was ample evidence to the contrary. In particular, he admitted in his statement to the police that he sold cocaine and that all of the contraband seized from his house belonged to him. He explained that he paid \$120 for the powder cocaine in his bedroom, and that quantity exceeded one gram and thus created a rebuttable presumption that it was possessed with intent to deliver. *See* Ark. Code. Ann. § 5-64-401(d) (Supp. 2005). Among the items he possessed were digital scales and plastic baggies, which he explained were used for packaging the cocaine. Mr. Hill's admission that he was a longtime cocaine dealer was evidence of his criminal intent with respect to the current charges. *See Hurvey v. State*, 298 Ark. 289, 766 S.W.2d 926 (1989). The State presented sufficient evidence that Mr. Hill twice delivered cocaine and was in possession of cocaine with intent to deliver, and that he knew that each of the substances were cocaine.

Affirmed.

PITTMAN, C.J., and BAKER, J., agree.

